

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
Wheeling

DIEGO L. HANSARD,

Petitioner,

v.

Civil Action No. 5:21-CV-101
Crim. Action No. 5:18-CR-50-1
Judge Bailey

USA,

Respondent.

ORDER ADOPTING REPORT AND RECOMMENDATION

The above referenced case is before this Court upon the magistrate judge's recommendation that petitioner's Motion Under 28 U.S.C. § 2255 to Vacate, Set Aside, or Correct Sentence by a Person in Federal Custody [Civil Action No. 5:21-CV-101 Doc. 1; Crim. Action No. 5:18-CR-50-1 Doc. 437] be denied and dismissed with prejudice.

This Court is charged with conducting a *de novo* review of any portion of the magistrate judge's report to which a specific objection is registered, and may accept, reject, or modify, in whole or in part, the recommendations contained in that report. 28 U.S.C. § 636(b)(1). However, absent prompt objection by a dissatisfied party, it appears that Congress did not intend for the district court to review the factual and legal conclusions of the magistrate judge. *Thomas v. Arn*, 474 U.S. 140 (1985). Additionally, any party who fails to file timely, written objections to the magistrate judge's report pursuant to 28 U.S.C. § 636(b)(1) waives the right to raise those objections at the appellate court level. *United*

States v. Schronce, 727 F.2d 91 (4th Cir. 1984), *cert. denied*, 467 U.S. 1208 (1984). No objections have been filed to the magistrate judge's report and recommendation.

A *de novo* review of the record indicates that the magistrate judge's report accurately summarizes this case and the applicable law. Accordingly, the magistrate judge's report and recommendation [**Civil Action No. 5:21-CV-101 Doc. 6; Crim. Action No. 5:18-CR-50-1 Doc. 445**] is **ADOPTED**, and petitioner's Motion Under 28 U.S.C. § 2255 to Vacate, Set Aside, or Correct Sentence by a Person in Federal Custody [**Civil Action No. 5:21-CV-101 Doc. 1; Crim. Action No. 5:18-CR-50-1 Doc. 437**] is **DENIED** and **DISMISSED WITH PREJUDICE**. Moreover, petitioner's Application to Proceed in District Court Without Prepaying Fees or Costs [**Civil Action No. 5:21-CV-101 Doc. 2**] is hereby **DENIED AS MOOT**. This Court further **DIRECTS** the Clerk to enter judgment in favor of the respondent and to **STRIKE** this case from the active docket of this Court.

It is so **ORDERED**.

The Clerk is directed to transmit copies of this Order to any counsel of record and to mail a copy to the *pro se* petitioner

DATED: March 7, 2022.



JOHN PRESTON BAILEY
UNITED STATES DISTRICT JUDGE